

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEOMBR'E LOWE, #230502,

Plaintiff,

Case No. 05-CV-72278

v.

HONORABLE DENISE PAGE HOOD

E. WALKER, et. al.

Defendants.

_____ /

ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Wallace Capel's Report and Recommendation dated January 18, 2006. Plaintiff filed an Objection on February 1, 2006.

Magistrate Judge Capel concluded (1) Defendant Kuiper is entitled to absolute immunity from suit; (2) Plaintiff has not shown an accompanying physical injury necessary to bring suit for mental or emotional injury under 28 U.S.C. § 1997e(e); (3) Defendants' alleged statement does not constitute a deprivation of constitutional rights where the charges were adjudicated at a fair hearing; (4) Plaintiff has not shown the deprivation of the minimum civilized measures of life's necessities required for an Eighth Amendment claim; (5) Plaintiff has not shown he was engaged in protected conduct or that an adverse action was taken as required for a First Amendment retaliation claim; and (6) the Defendants are entitled to qualified immunity as Plaintiff has failed to establish a constitutional violation. The Magistrate Judge further concluded that Plaintiff's proposed amended complaint asserts the same claims against Defendants that have previously been determined to be without merit.

The Magistrate Judge recommended this Court grant Defendants' Motion to Dismiss, deny

Plaintiff's Motion to Amend and dismiss Plaintiff's action.

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Wallace Capel, dated January 18, 2006, is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss [**Docket No. 14, filed September 21, 2005**] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Amend [**Docket No. 19, filed October 18, 2005**] is DENIED.

IT IS FURTHER ORDERED that Defendants Stapleton and Walker's Motion to Extend Enlargement of Time in Which to File Responsive Pleading [**Docket No. 10, filed August 15, 2005**] is GRANTED.

IT IS FURTHER ORDERED that Defendant Kuiper's Motion to Extend Enlargement of Time in Which to File Responsive Pleading [**Docket No. 12, filed August 15, 2005**] is GRANTED.

IT IS FURTHER ORDERED that this matter is DISMISSED with prejudice.

s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED: February 17, 2006

I hereby certify that a copy of the foregoing document was served upon

Deombre'e Lowe, #230502
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counsel of record on February 17, 2006, by electronic and/or ordinary mail.

s/William F. Lewis

Case Manager